Docket No. RSW920030069US1 (7161-097U) **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	:	Customer Number: 46320
Ronald DOYLE, et al.	:	Confirmation Number: 6219
Application No.: 10/612,583	:	Group Art Unit: 2113
Filed: July 1, 2003	:	Examiner: E. Mehrmanesh

For: AUTONOMIC PROGRAM ERROR DETECTION AND CORRECTION

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief is submitted under 37 C.F.R. § 41.41 in response to the EXAMINER'S ANSWER dated September 10, 2007.

The Examiner's response to Appellant's arguments submitted in the Appeal Brief of June 1, 2007, raises additional issues and underscores the factual and legal shortcomings in the Examiner's rejection. In response, Appellants rely upon the arguments presented in the Appeal Brief of June 1, 2007, and the arguments set forth below.

Appellants have compared the statement of the rejection found on pages 3-10 of the Examiner's Answer with the statement of the rejection found on pages 2-9 of the Third Office Action. Upon making this comparison, Appellants have been unable to discover any substantial differences between the respective statements of the rejection. As such, Appellants proceed on the basis the Examiner's sole response to Appellants' Appeal Brief is found on pages 10-15 of the Examiner's Answer.

On pages 4 and 5 of the Appeal Brief, Appellants presented arguments that the Examiner had failed to specifically identify the claimed "interrelated components and resources." The specific identification, by the Examiner, of these elements is important since these features are subsequently referred to in the claims. The Examiner addressed Appellants' arguments on pages 11 and 12 of the Examiner's Answer. Specifically, in the second and third full paragraphs on page 10 of the Examiner's Answer, the Examiner referred to Appellants' specification for examples of interrelated components and resources and "examples of the different error categories for the components and resources."

The Examiner then asserted the following in the paragraph spanning pages 11 and 12 and in the first full paragraph on page 12 of the Examiner's Answer:

> Cobb discloses examples of the different error categories for the interrelated components and resources, including invalid data, and unexpected behavior of the components and resources (see col. 5, lines 50-54, wherein Cobb discloses "If a software routine is called or requested to perform a service from another software routine (e.g., get storage, read a database) and the call was found to be in error (e.g., the function is not supported, invalid data in the call)").
>
> In light of the specification and based on the disclosed error category examples of Cobb (i.e. a software routine calling/requesting to perform a service from another software routine), Cobb's computer system implicitly comprises interrelated components and resources (i.e. database management system, application components), which reads on the claimed limitations as recited in claims 1, 7, and 10.

Although not explicitly stated, the Examiner is relying upon an inherency argument (i.e., "Cobb's computer system implicitly comprises interrelated components and resources").

Appellants respectfully submit that the Examiner's reliance upon the doctrine of inherency to disclose these features is misplaced. Inherency may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient to establish inherency.[1] To establish inherency, the extrinsic evidence must make clear that the missing element(s) must necessarily be present in the thing described in the reference, and that the necessity of the feature's presence would be so recognized by persons of ordinary skill.[2] The Examiner, however, did not discharge that burden of indicating where such a teaching appears in the prior art. Thus, the Examiner has not established that these limitations are inherently disclosed by Cobb.

Moreover, Appellants also note that the Examiner's comparison of Appellants' description of error conditions with Cobb's teaching of different error categories is misplaced. The Examiner has not set forth a reasonable explanation as to why the teachings within Cobb of "the function is not supported, invalid data in the call" necessarily leads to a conclusion as to the existence, within Cobb, of the claimed interrelated components and resources. For example, just single resource could all provide "the function is not supported, invalid data in the call." Thus, the Examiner's inherency argument is unfounded.

[1] In re Rijckaert, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art); In re Oelrich, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981).

[2] Finnegan Corp. v. ITC, 180 F.3d 1354, 51 USPQ2d 1001 (Fed. Cir. 1999); In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999); Continental Can Co. USA v. Monsanto Co., 20 USPQ 2d 1746 (Fed. Cir. 1991); Ex parte Levy, 17 USPQ2d 1461 (BPAI 1990).

Still further, as noted above, the claimed "interrelated components and resources" is further referred to in the claims (e.g., "individual ones of the interrelated components," "an error condition in a specific one of the components," "a fault in one of the interrelated components and resources named in said associated log," and "a log associated with said one of the interrelated components and resources"). If, as asserted by the Examiner, that the claimed "interrelated components and resources" are only found "implicitly" in the teachings of Cobb, Appellants are unclear as to how the Examiner can then assert that certain claimed elements associated with individual ones of the interrelated components and resources are taught by Cobb. The teaching of the claim interrelated components and resources is allegedly implicit, and thus, Cobb cannot refer to more specific limitations associated with these interrelated components and resources.

On pages 5 and 6 of the Appeal Brief, Appellants addressed a limitation (i.e., "reporting error conditions in a log file using both uniform conventions for naming dependent ones of the interrelated components and ...") that the Examiner, in a prior Office Action, asserted was not disclosed by Cobb. Appellants also noted that the claimed limitation involves several concepts including: (i) interrelated components; (ii) dependent ones of the interrelated components; (iii) naming the dependent ones; and (iv) a uniform convention for the naming. However, as argued by Appellants, none of these concepts are found in the passage that the Examiner cited to teach these limitations.

On pages 12 and 13 of the Examiner's Answer, the Examiner pointed on "Cobb's Figs. 8A and 8B" and asserted the following:

> With respect to the uniform conventions, the applicant's specifications (see specification, page 10, paragraph [0020], lines 4-6) states that "Each entry can be formatted according to a common error format in which all error conditions, regardless of source or nature, are expressed **uniformly in a standardized way**."
>
> Cobb discloses the error detection keywords as shown in TABLE 1 (col. 6, lines 62-68 through col. 7, lines 1-37). Noting col. 6, lines 55-58, wherein Cobb discloses "Each symptom string entity has a format 'xxxx/vvvvvvvv' where 'xxxx' is a keyword that identifies the category of the associated value, 'vvvvvvvv". The format of the entries of the error log as shown in sections 1-4 of Fig. 8A and 8B is expressed uniformly in a standard way. (emphasis in original)

At the outset, Appellants note that the Examiner has improperly cited Appellant's specification. Paragraph [0020], lines 4-6 refers to uniform formatting of errors, not the claimed "uniform conventions for naming dependent ones of the interrelated components."). Moreover, the Examiner has again failed to identify the claimed concepts that were identified in the Appeal Brief.

For example, the Examiner has failed to identify the claimed "dependent ones of the interrelated components." The Examiner's identification on page 13, of various keywords taught by Cobb, fails to identically disclose the claimed uniform naming convention for the "dependent ones of the interrelated components and resources." As already noted above, the Examiner has failed to establish that Cobb identically discloses the claimed "interrelated components and resources." Moreover, the Examiner has also failed to establish that Cobb identically discloses the "dependent ones" of these features, and since the Examiner's has failed to establish that Cobb identically the "dependent ones," the Examiner cannot assert that Cobb identically discloses a uniform naming convention for the dependent ones of the interrelated components and resources."

On page 6 of the Appeal Brief, with regard to the claimed "detecting error conditions arising from individual ones of the interrelated components," Appellants argued that the Examiner's cited passages are both silent as to the interrelated components and also as to individual ones of the interrelated components. The Examiner's response to these arguments is found on page 14 of the Examiner's Answer as follows:

> Cobb discloses the error detection keywords as shown in TABLE 1 (col. 6, lines 62-68 through col. 7, lines 1-37). Noting col. 6, lines 55-58, wherein Cobb discloses "Each symptom string entity has a format 'xxxx/vvvvvvvv where 'xxxx' is a keyword that identifies the category of the associated value, 'vvvvvvvv". The following is a keyword that identifies the erroneous device as shown in TABLE 1:
> ~DEVS'--specifies that 'vvvvvvvv' contains a value that identifies a device that is involved in a failure (e.g., device number, device address).
> Cobb further discloses (col. 6, lines 40-42), "The 'PCSS' keyword specifies that the associated value 'ssssssss' contains a unique detection point identifier," Therefore Cobb discloses Detecting error in individual ones of the interrelated components as recited in claims 1, 7, and 10.

Although the Examiner has established that Cobb discloses identifying devices with an error, the Examiner's analysis is again silent with regard to the claimed detecting error conditions arising from individual ones of the *interrelated* components.

On pages 6 and 7 of the Appeal Brief, Appellants presented several arguments regarding the limitations found in the penultimate clause of claim 1. In response, the Examiner asserted the following on pages 14 and 15 of the Examiner's Answer:

> Noting col. 8, lines 1-25, Cobb discloses the steps for constructing the generic alert from the error log, "**In the first step**, the generic alert data and **probable causes** sub vectors are built from information in the generic alert descriptor entry 13 selected by the ALERTDSC keyword on the EDDC process cell 35 (FIG. 7). FIG. 9 illustrates a detailed mapping of the generic alert descriptor entry fields to the generic alert data and probable causes sub vectors. **In the second step**, the generic alert causes sub vector (s) is built from information in the generic alert causes entry (s) selected by the ALERTCSE keyword on the EDDC process call 35. FIG. 9 again illustrates this mapping. **In the third step**, the generic alert recommended action sub vector is built from information in the generic alert recommended action entry (s) selected by the ALERTRAC keyword on the EDDC process call 35. The final three steps in the construction of the generic alert require information from the software problem error log record stored on error

> log 55." The above steps performed by Cobb's error detection system, reads on the claimed limitation of parsing a log associated with said specific one of the components to determine whether said error condition arose from a fault in one of the interrelated components and resources named in said associated log, as recited in claims 1, 7, and 10. (emphasis in original)

Appellants disagree with the Examiner's conclusion. In fact, all the Examiner has done is reproduced a certain passage within Cobb and asserted that this passage identically discloses the claimed limitations at issue without any supporting analysis.

Notwithstanding the Examiner's lack of analysis, absent from this passage is a teaching comparable to the claimed "parsing a log associated with said specific one of the components to determine whether said error condition arose from a fault in one of the interrelated components and resources named in said associated log." The Examiner's cited passage refers to Fig. 9 of Cobb and emphasizes building "probable causes sub-vectors." Exactly what claimed features the Examiner is asserting the "probable causes sub-vectors" of Cobb identically disclose is unclear to Appellants. However, Appellants presume that the Examiner is somehow relying upon this teaching to disclose the claimed determining whether the error condition arose from a fault in one of the interrelated components and resources named in the associated log.

If Appellants presumption is correct, then the Examiner's "assertions" still fail to establish that Cobb identically discloses the claimed invention. As noted in the Appeal Brief, the log (to be parsed) is associated with a specific one of the components in which an error condition occurs. However, there is no identification, within the Examiner's cited passage, of either a specific one of the components in which an error condition occurs or that the log is associated with this specific one of the components.

Referring to column 7, lines 40-64, Cobb teaches that the "log" includes the following information:

> 1) An identification of the processor on which the problem program 30 that detected the error was executing. This includes the machine type and serial number ...
> 2) The date and time the EDDC process 50 was called ...
> 3) The name of the file that contains the storage dump 40 ...
> 4) An identification of the operating system on which the problem program 30 that detected the error was running ...
> 5) An identification of the problem program 30 that detected the error ...
> 6) The primary symptom string ...
> 7) A secondary symptom string which is a collection of additional data required to further identify the error. All the registers and their values at the time of error detection should be included in the secondary symptom string.

As evident from this passage, this log appears to be a general log and not "a log associated with said specific one of the components," as claimed. Moreover, the information in the log does not appear to have information that would tie the error condition to "a fault in one of the interrelated components and resources named in said associated log" so as to determine whether this error condition arose from the fault.

Appellants also note that the claimed invention recites parsing two logs (i.e., "parsing a log associated with said specific one of the components" and "further parsing a log associated with said one of the interrelated components and resources"). However, the Examiner's cited passage only refers to parsing of a single log.

For the reasons set forth in the Appeal Brief of June 1, 2007, and for those set forth herein, Appellants respectfully solicit the Honorable Board to reverse the Examiner's rejection under 35 U.S.C. § 102.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: November 13, 2007

Respectfully submitted,

/Scott D. Paul/
Scott D. Paul
Registration No. 42,984
Steven M. Greenberg
Registration No. 44,725
Phone: (561) 922-3845
CUSTOMER NUMBER 46320